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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/700,912	11/01/2003	Kristopher J. Mueller	KJM-1	7759
7590 07/21/2005				
Jacobson Holman PLLC 400 Seventh Street N W Washington, DC 20004				
			EXAMINER	
			PAYER, HWEI SIU CHOU	
			ART UNIT	PAPER NUMBER
			3724	

DATE MAILED: 07/21/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

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<b>Office Action Summary</b>	Application No. 10/700,912	Applicant(s) MUELLER, KRISTOPHER J.	
	Examiner Hwei-Siu C. Payer	Art Unit 3724	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 08 March 2005.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-5 and 7-14 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-3, 7-9 and 11-14 is/are rejected.
- 7) ☒ Claim(s) 4, 5 and 10 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)  | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

## Detailed Action

### Claims Rejection - 35 U.S.C. 102 (e)

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

2. (e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.
3. Claims 1 and 8 are rejected under 35 U.S.C. 102(e) as being clearly anticipated by Arent et al. (U.S. Patent Application Publication No. 2004/0250425).

### Claims Rejection - 35 U.S.C. 103(a)

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. Claim 2 is rejected under 35 U.S.C. 103(a) as being unpatentable over Arent et al. (U.S. Patent Application Publication No. 2004/0250425) in view of MacDonald (U.S. Patent No. 6,427,569).

Arent et al. show the claimed utility knife except it lacks a track for receiving the pivot wheel (A).

MacDonald shows a utility knife comprising housing sides each having a wheel track (50,51) for receiving a pivot wheel (34).

It would have been obvious to one skilled in the art to modify Arent et al. by providing the housing halves with wheel tracks to facilitate stabilizing the pivot wheel within the knife housing as taught by MacDonald.

3. Claims 3 and 13 are rejected under 35 U.S.C. 103(a) as being unpatentable over Arent et al. (U.S. Patent Application Publication No. 2004/0250425) in view of Schrock et al. (U.S. Patent No. 4,087,911).

Arent et al. show the claimed utility knife except it lacks an opening extending through a middle portion of the knife.

Schrock et al. show a knife (Fig.4) having an opening (3) extending through a middle portion of the knife housing (2).

It would have been obvious to one skilled in the art to modify Arent et al. by providing the middle portion of the knife housing with a through opening for receiving a user's finger to facilitate a firm grip and to prevent slipping of the knife in a user's hand as taught by Schrock et al.

4. Claims 7 and 14 are rejected under 35 U.S.C. 103(a) as being unpatentable over Arent et al. (U.S. Patent Application Publication No. 2004/0250425) in view of Chomiak (U.S. Patent No. 5,241,750).

Arent et al. show the claimed utility knife except the rear portion of the housing lacks a protruding section with a skid plate.

Chomiak shows a knife (Fig.1) having a housing wherein at the rear portion of the housing there is a protruding section (i.e. the rounded distal portion of the housing extending away from the screw 44 and opposite the blade 13), and the protruding section includes a skid plate (i.e. the bottom portion of the protruding section).

It would have been obvious to one skilled in the art to modify Arent et al. by providing the housing with a rear protruding section including a skid plate to keep a user's hand from scraping the surface to be cut as taught by Chomiak.

5. Claims 9, 11 and 12 are rejected under 35 U.S.C. 103(a) as being unpatentable over Arent et al. (U.S. Patent Application Publication No. 2004/0250425) in view of Janser (U.S. Patent No. 5,404,645).

Arent et al. show the claimed utility knife except the housing halves are connected at a central point with a screw (D) that does not allow the relative rotation of the handle halves to access the storage compartment.

Janser shows a knife (Fig.1) comprising a housing having first and second sides (3,4) and a mechanism (11/12) for securing the first side to the second side, a rotating mechanism (10) for enabling the first and second sides to rotate relative to one another to a position to access a storage compartment within the housing, and a lock/release mechanism (13) including a push button release mechanism (41) and a locking notch (42).

It would have been obvious to one skilled in the art to modify Arent et al. by providing the knife with a securing mechanism, a rotating mechanism and a lock/release mechanism for securing and locking the handle halves yet allowing the handle halves to be rotated relative to each other for access to the storage compartment in a quick way as taught by Janser.

#### **Indication of Allowable Subject Matter**

Claims 4, 5 and 10 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

#### **Action Made Final**

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any

Art Unit: 3724

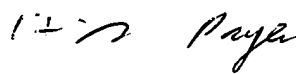
extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

### Point of Contact

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Hwei-Siu C. Payer whose telephone number is 571-272-4511. The examiner can normally be reached on Monday through Friday, 7:00 am to 4:00 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Allan N. Shoap can be reached on 571-272-4514. The fax phone numbers for the organization where this application or proceeding is assigned are 571-273-8300 for official communications and 571-273-4511 for proposed amendments.

H Payer  
July 13, 2005

  
Hwei-Siu Payer  
Primary Examiner